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*Attorneys for (Proposed) Intervenor-Defendants*

CALIFORNIANS TO DEFEND THE OPEN PRIMARY  
and INDEPENDENT VOTER PROJECT

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PEACE AND FREEDOM PARTY OF  
CALIFORNIA, *et al.*,

*Plaintiffs,*

vs.

Dr. SHIRLEY N. WEBER, CALIFORNIA  
SECRETARY OF STATE,

*Defendant.*

CALIFORNIANS TO DEFEND THE  
OPEN PRIMARY and INDEPENDENT  
VOTER PROJECT,

*(Proposed) Intervenor-Defendants.*

Case No. 4:24-cv-08308-MMC

**DECLARATION OF  
CHRISTOPHER E. SKINNELL IN  
SUPPORT OF MOTION TO  
INTERVENE OF CALIFORNIANS  
TO DEFEND THE OPEN PRIMARY  
and THE INDEPENDENT VOTER  
PROJECT**

DATE: March 28, 2025

TIME: 9:00 a.m.

COURTROOM: 7 (19th Floor)

JUDGE: Hon. Maxine M. Chesney

**DECLARATION OF CHRISTOPHER E. SKINNELL**

I, CHRISTOPHER E. SKINNELL, declare under penalty of perjury:

1. I am over 18 years of age. I make this declaration of my personal knowledge and, if called as a witness, I could and would testify competently thereto. I am one of the counsel of record for proposed intervenors Californians to Defend the Open Primary (“CADOP”) and Independent Voter Project (“IVP”) in this proceeding.

**A. About Californians to Defend the Open Primary and the Independent Voter Project.**

2. Since its formation, I have served as counsel for Californians to Defend the Open Primary. CADOP is a nonprofit corporation, formed to advocate in favor of Proposition 14 adoption by California’s voters. Its sole purpose was and is to educate the public about, to advocate for open, nonpartisan primary elections in California, allowing voters to cross party lines in elections for Legislature, statewide elected officials and congressional districts, and to defend Proposition 14 in litigation.

3. As part of its mission (and to comply with California’s Political Reform Act, *see* Cal. Gov’t Code § 81000 *et seq.*), CADOP created and administered a political committee, Yes on 14—Californians for an Open Primary, that successfully advocated for the adoption of Proposition 14 by California voters. I served as counsel for that committee as well. Yes on 14 raised and spent \$4.75 million to advocate for enactment of Proposition 14. Yes on 14 was endorsed by all major California newspapers and supported by a broad range of civic groups including AARP, the Asian Business Association, California School Administrators, the Latin Business Association, the professional Peace Officers Association, and the California Chamber of Commerce. Yes on 14’s voice in advocating for and supporting enactment of Proposition 14 was essential to its passage and vital to the dissemination to the voters of its supporters’ campaign message. Proposition 14 was opposed by the leadership of both of California’s major political parties and by nearly all of the minor parties as well, because Proposition 14 would (and did) establish a system for voter-nominated

1 candidates, rather than political party-nominated candidates. Nevertheless,  
2 Californians voted on June 8, 2010, to adopt Proposition 14.

3 4. I have also participated, on behalf of CADOP, in legislative activities  
4 surrounding Proposition 14, to ensure that implementation of the measure is not  
5 frustrated by legislative tinkering. My activities on behalf of CADOP include, among  
6 other things, meetings with legislative staff and other interested parties as part of the  
7 process leading to the enactment of Assembly Bill 1413 (“AB 1413”),<sup>1</sup> technical clean-  
8 up legislation that amended a number of provisions of SB 6, including some  
9 provisions relating to the ability of political parties to stay ballot-qualified under  
10 Proposition 14’s primary system.

11 5. I have represented IVP in connection with Proposition 14 since even  
12 before CADOP was formed. IVP is a nonprofit corporation, founded to represent and  
13 advocate for the full engagement of non-partisan voters in California’s electoral  
14 process. Proposition 14’s Top Two Open Primary system has been a major reform  
15 project of Intervenor IVP for several years on which it has expended considerable  
16 resources. It was directly involved in drafting and sponsoring—indeed, was the initial  
17 drafter—of the measure that became Proposition 14, and the SB6 legislation.<sup>2</sup> It  
18 expended significant resources advocate for placement of the Top Two Open Primary  
19 before the voters. The Top Two Open Primary plan is a major accomplishment of IVP,  
20 and declaring it inoperative would severely harm IVP’s advocacy for and programs for  
21 DTS voters, and detract for IVP’s reputation as an effective advocate for DTS voters.

22 **A. CADOP’s and IVP’s Prior Litigation Activities in Support of Prop. 14.**

23 6. I have also served as counsel of record for CADOP and IVP in each and  
24 every one of the cases in which they have participated in the defense of Proposition 14  
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26 <sup>1</sup> Assem. Bill 1413 (2011-2012 Reg. Sess.), *codified at* Cal. Stats. 2012, ch. 3.

27 <sup>2</sup> Senate Bill 6 (2009-2010 Reg. Sess), *codified at* Cal. Stats. 2009, ch. 1 (“SB6”),  
28 was adopted by the Legislature as implementing legislation for Proposition 14, and its  
effectiveness was made contingent upon Proposition 14’s approve by the voters at the  
June 2010 primary.

1 and its implementing legislation. Since Proposition 14 was enacted, CADOP and IVP  
2 have spent more than \$1 million dollars to defend the measures in every level of the  
3 federal and state courts, up to and including petitions for review and certiorari in the  
4 California and United States Supreme Courts, respectively.

5 7. After Proposition 14 was placed on the ballot, the Yes on 14 committee  
6 was granted intervention in a state court action to defend the measure against a  
7 collusive action involving the Legislature itself, which sought to diminish the chances  
8 that the voters would enact the measure. *Clark v. Bowen, Legislature of the State of*  
9 *California, Real Party in Interest*, Sacramento Superior Court No. Case No. 34-2010-  
10 80000460. The ballot title-and-summary and the ballot label are required to be  
11 accurate and fair presentations upon which voters can rely to judge competing claims  
12 in a campaign. In *Clark v. Bowen*, the plaintiff, an author of the Ballot Argument  
13 against Proposition 14, with the consent of the legislative leadership, was asking the  
14 Court to amend the language for the ballot title-and-summary and the ballot label so  
15 that they tracked his ballot argument against Proposition 14. The changes proposed  
16 by the plaintiff would have converted the ballot title and summary and label into  
17 campaign advocacy against Proposition 14.

18 8. By the time the Yes on 14 campaign (*i.e.*, CADOP) learned of the filing of  
19 *Clark v. Bowen*, the Legislature had already reached an agreement with plaintiff  
20 Clark that the Court could enter an order amending the title and summary and label  
21 in accordance with plaintiff's wishes. CADOP requested that the plaintiff Clark and  
22 the Legislature stipulate to the intervention of Yes on 14. They refused. CADOP  
23 therefore filed an ex parte application to intervene on behalf of Yes on 14, which was  
24 granted. Interveners mounted a strong defense and successfully resisted the most  
25 egregious changes to the ballot title-and-summary and ballot label proposed by  
26 plaintiff and the Legislature in the Sacramento County Superior Court. That decision  
27 was upheld by the Third District Court of Appeal. *See Clark v. Superior Court*, 2010  
28 Cal. App. Unpub. LEXIS 1911, \*25 (Cal. Ct. App. 3d Dist. Mar. 16, 2010). The same

1 day, the Court of Appeal also overruled Mr. Clark’s efforts to rewrite the Legislative  
 2 Analyst’s “Fiscal Effect” analysis for Proposition 14. *See Taylor v. Superior Court*,  
 3 2010 Cal. App. Unpub. LEXIS 1909 (Cal. Ct. App. 3d Dist. Mar. 16, 2010).

4 9. CADOP and IVP have also intervened in multiple lawsuits following  
 5 Proposition 14’s enactment, including: *Field v. Bowen*, 199 Cal. App. 4th 346 (2011);  
 6 *Brown v. Bowen*, Case No. 2:12-cv-05547-PA-SP (C.D. Cal.) (dismissed Oct. 9, 2012);  
 7 *Chamness v. Bowen*, 722 F.3d 1110 (9th Cir. 2013); *Rubin v. Padilla*, 233 Cal. App.  
 8 4th 1128 (2015), *rev. denied*, 2015 Cal. LEXIS 2395 (Cal., Apr. 29, 2015), *cert. denied*,  
 9 577 U.S. 814 (Oct. 13, 2015), and *Soltysik v. Padilla*, Case No. 2:15-cv-7916-AB-GJS  
 10 (C.D. Cal.) (dismissed Feb. 27, 2020).

11 10. In *Clark*, *Field*, *Brown*, *Chamness*, and *Soltysik*, CADOP and IVP were  
 12 granted intervention of right over the objection of the respective plaintiffs. In *Rubin*,  
 13 the plaintiffs wisely stipulated to CADOP’s and IVP’s intervention.

14 11. The *Rubin* case—brought by the same political parties who are plaintiffs  
 15 herein—raised the same claim presented by this action: that the purportedly  
 16 fundamental rights of the “minor” political parties to access the ballot is violated by a  
 17 nonpartisan “top-two” primary system because that system makes it unduly difficult  
 18 for a minor-party candidate to progress to the general election. The Court of Appeal  
 19 rejected that claim in *Rubin*, and the California and U.S. Supreme Courts denied  
 20 petitions to hear the case. CADOP and IVP fully participated in that action, including  
 21 filing the only opposition to the petition for certiorari in the U.S. Supreme Court.

## 22 **B. Timeliness & Lack of Prejudice to the Existing Parties.**

23 12. This case was apparently filed on November 21, 2024. CADOP and IVP  
 24 were not served with the complaint, or otherwise notified by Plaintiffs’ counsel, even  
 25 as a courtesy, despite the fact that CADOP, IVP and the political parties who are  
 26 plaintiffs in this case were parties to the *Rubin* case as well, and despite Plaintiffs’  
 27 clear recognition of the overlap of issues, as evidenced by footnote 1 of the Complaint.  
 28 I also did not receive notice from the Secretary of State’s counsel, but none of the

1 counsel of record participated in *Rubin*, and the current Secretary of State is two  
2 office-holders removed from the one who initially agreed to intervention in that case.  
3 Upon learning of the filing of this case, I promptly contacted my clients and then  
4 contacted counsel for Defendant Secretary of State Weber and Plaintiffs herein, on  
5 January 22, 2025, to request a stipulation to intervention. On January 23, 2025,  
6 counsel for Plaintiffs indicated that they would not stipulate to intervention, and  
7 Intervenor's counsel immediately began preparing motion papers.

8 13. Counsel for Defendant Secretary of State responded on January 27,  
9 2025, indicating that the Secretary does not oppose CADOP's and IVP's intervention.  
10 (See Exhibit 1 hereto, which is a true and correct copy of this e-mail.) On January 29,  
11 2025, counsel for proposed Intervenor's met-and-conferred with counsel for the parties  
12 by videoconference and by e-mail to coordinate the timing of this motion in a manner  
13 that is most convenient to all the parties.

14 14. The Secretary's response to the complaint is not due until this Friday—  
15 January 31—because the parties previously stipulated to an extension of time. (See  
16 ECF No. 11.) I am also informed that Defendant Secretary anticipates filing a motion  
17 dismiss, to be heard on March 14, 2025. Proposed Intervenor's have submitted a  
18 proposed answer to the complaint with this motion, and they are filing a request that  
19 the Court allow them to provisionally move to dismiss as well, so that their motion  
20 can be heard concurrently with Defendant's. No other proceedings are presently  
21 pending that could be delayed.

22 15. CADOP and IVP do not propose to raise any new claims. I anticipate  
23 that their "defenses" will consist almost completely, if not completely, of responding to  
24 questions of law and fact raised by the Complaint itself and by Defendant's motion to  
25 dismiss.

26 16. So far as I am aware, no motions have been filed, and no other  
27 proceedings have been scheduled, except for an Initial Case Management Conference  
28 set for February 21, 2025, see ECF No. 14, in which CADOP and IVP would be fully

1 prepared to participate if the Court permits.

2 17. CADOP and IVP do not propose to delay the conduct of this action at all,  
3 but seeks expeditious resolution of this case.

4 **C. Inadequacy of Representation.**

5 18. Intervenor's are confident that Defendant Secretary of State will present  
6 a defense to this litigation; however, given the history of past litigation relating to  
7 Proposition 14, there is no reason to presume that the other parties "will undoubtedly  
8 make all of the intervenor's arguments" or otherwise adequately represent CADOP's  
9 and IVP's interests.

10 19. Though CADOP/IVP and the Secretary have both defended the measure  
11 in the past, they have routinely presented different arguments in support of the  
12 measure, and there has been a history of actual disagreement about those arguments.

13 20. For example, in both *Field* and *Chamness*, CADOP and IVP and the  
14 Secretary disagreed about the proper interpretation of Elections Code §§ 8002.5 and  
15 13105. *See, e.g., Field*, 199 Cal. App. 4th at 370. They have disagreed about the proper  
16 interpretation of other provisions regarding write-in voting. *See id.* at 354-55  
17 (accepting CADOP's and IVP's interpretation and rejecting Secretary's). In *Field*,  
18 Intervenor's alone argued that the case could be resolved as a matter of law in an  
19 appeal from denial of a preliminary injunction, rather than remanding for further  
20 proceedings—a proposition the Court of Appeal accepted. *See id.* at 352-53. In  
21 *Chamness*, Intervenor's alone argued that *Pullman* abstention was appropriate in  
22 light of the pendency of *Field*. *See Chamness v. Bowen*, Case No. 2:11-cv-01479-ODW-  
23 FFM (C.D. Cal.) (Dkt. #80) (Mar. 30, 2011 order denying motion for preliminary  
24 injunction), pp. 6-8. And in both the *Field* and *Chamness* actions, CADOP and IVP  
25 provided far more extensive briefing regarding the interests that support the ballot  
26 label rules at issue in this case, leading the Court of Appeal in *Field* to hold that:  
27 "Plaintiffs argue that *Libertarian Party [of Cal. v. March Fong Eu*, 28 Cal. 3d 535  
28 (1980)] cannot be applied here because the case was based on a qualified party system



1 that Proposition 14 and Senate Bill 6 ‘dismantled’ by doing away with partisan  
2 primaries. *This contention is persuasively refuted in interveners’ appellate brief*, which  
3 identifies many rights that continue to be reserved for qualified parties under the  
4 Proposition 14 and Senate Bill 6 open primary system.” *Field*, 199 Cal. App. 4th at  
5 359 (emphasis added).

6 21. And in *Rubin*, it was Intervenorers who submitted substantial evidence  
7 upon which the Court of Appeal relied in concluding that Proposition 14 top-two  
8 primary system serves valuable interests. *See* 233 Cal. App. 4th at 1150-51.  
9 Intervenorers were also the only parties in *Rubin* to file an opposition to the petition for  
10 certiorari. *See* U.S. Supreme Court Docket, No. 15-135.

11 22. Permitting intervention by CADOP and IVP will ensure that the Court  
12 receives the benefit of a strong defense of the Top Two Candidate Open Primary Act  
13 that will sharpen the issues for the Court, and provide useful information and  
14 briefing to aid the Court in its rulings. CADOP’s and IVP’s attorneys—alone among  
15 the counsel in this action—have been involved in every single lawsuit challenging  
16 Proposition 14, and they were involved in the initial drafting of the measure and  
17 subsequent amendments thereto as well. They, accordingly, have background  
18 knowledge about Proposition 14 and its implementing statutes that no other  
19 participant in this action has.

20 I declare under penalty of perjury under the laws of the State of California that  
21 the foregoing is true and correct of my personal knowledge, and, if called as a witness,  
22 I could testify competently thereto, except for those matters stated on information and  
23 belief and as to those matters, I believe them to be true.

24 Executed this 31st day of January, 2025, in San Rafael, California.

25 /s/ Christopher E. Skinnell  
26 Christopher E. Skinnell  
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# **EXHIBIT 1**

## Christopher Skinnell

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**From:** Gabrielle Boutin <Gabrielle.Boutin@doj.ca.gov>  
**Sent:** Monday, January 27, 2025 5:29 PM  
**To:** Christopher Skinnell  
**Subject:** RE: Peace & Freedom Party, et al. v. Weber, No. 3:24-cv-08308-MMC (N.D. Cal.)

**Security Notice: This is an external email. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Hi Chris,

The Secretary of State's position is that she does not oppose your clients' intervention as defendants in the action. Thanks.

Brie

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**From:** Christopher Skinnell <CSkinnell@nmgovlaw.com>  
**Sent:** Wednesday, January 22, 2025 6:22 PM  
**To:** Gabrielle Boutin <Gabrielle.Boutin@doj.ca.gov>  
**Subject:** Peace & Freedom Party, et al. v. Weber, No. 3:24-cv-08308-MMC (N.D. Cal.)

**EXTERNAL EMAIL:** This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

Dear Ms. Boutin,

I am writing on behalf of Californians to Defend the Open Primary (CADOP) and the Independent Voter Project (IVP) regarding the above-mentioned case. I represented those organizations in a number of prior lawsuits challenging Proposition 14, including, most significantly, *Rubin v. Padilla*, 233 Cal. App. 4th 1128 (2015), which raised identical claims on behalf of the same parties.

I am writing because my clients intend to seek to intervene in this action, as it has in those many prior actions, and I wanted to ask if you would be willing to stipulate thereto. I see that January 31 is the extended deadline for the State to respond to the complaint, and we would anticipate that would could do so by that date, to avoid any potential disruption to the timeline of the case.

I would be happy to discuss the matter with you by phone if you have any questions.

Many thanks in advance for your consideration, and all best,

**Chris Skinnell, Partner**

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